



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 12, 2015

Mr. Matthew L. Grove
Assistant County Attorney
Fort Bend County
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2015-16644

Dear Mr. Grove:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 575136.

Fort Bend County (the "county") received a request for the evaluations and proposals pertaining to RFP# 13-058. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified Inmate Calling Solutions, L.L.C. ("CSI"); Network Communications Internal Corporation ("Network Communications"); Legacy Inmate Communications ("Legacy"); Securus Technologies, Inc.; and Synergy Telecom Service Company, Inc. ("Synergy") of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note the submitted information was the subject of two previous requests for information, in response to which this office issued Open Records Letter Nos. 2014-10008 (2014) and 2014-07340 (2014). In Open Records Letter No. 2014-10008, which in part concerned a request for a copy of the proposal submitted by Securus, we concluded the county must withhold the insurance policy numbers in the information at issue under section 552.136 of the Government Code and the county must release the remaining

information; however, any information protected by copyright may only be released in accordance with copyright law. In Open Records Letter No. 2014-07340, we concluded that, to the extent the customer information at issue is not publicly available on GTL's or Legacy's website, the county must withhold GTL's and Legacy's customer information under section 552.110(a) of the Government Code; the county must withhold certain information under section 552.110(b) of the Government Code; the county must withhold the insurance policy numbers in the information at issue under section 552.136 of the Government Code; and the county must release the remaining information; however, any information protected by copyright may only be released in accordance with copyright law. As we have no indication the law, facts, and circumstances on which the prior rulings were based have changed, the county must continue to rely on Open Records Letter Nos. 2014-10008 and 2014-07340 as previous determinations and withhold or release the submitted information in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from CSI or Legacy explaining why their information should not be released. Therefore, we have no basis to conclude CSI and Legacy have protected proprietary interests in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the county may not withhold any of the information at issue on the basis of any proprietary interest CSI or Legacy may have in it.

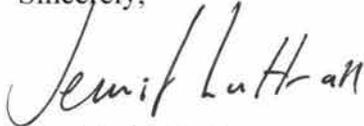
In summary, the county must continue to rely on Open Records Letter Nos. 2014-10008 and 2014-07340 as previous determinations and withhold or release the submitted information in accordance with those rulings. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

[orl_ruling_info.shtml](#), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 575136

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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